

PUBLIC HEALTH

STATES TO THE S

> Updated March 10, 2022

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Centers for Disease Control and Prevention Safety and Mitigation Measures

COVID-19 Spread and Protection

According to the Centers for Disease Control and Prevention (CDC), "COVID-19 spreads when an infected person breathes out droplets and very small particles that contain the virus. These droplets and particles can be breathed in by other people or land on their eyes, noses, or mouth. In some circumstances, they may contaminate surfaces they touch. People who are closer than 6 feet from the infected person are most likely to get infected." According to the CDC, "Anyone infected with COVID-19 can spread it, even if they do NOT have symptoms." The CDC advises that COVID-19 is spread in three main ways:

- Breathing in air when close to an infected person who is exhaling small droplets and particles that contain the virus.
- Having these small droplets and particles that contain virus land on the eyes, nose, or mouth, especially
 through splashes and sprays like a cough or sneeze.
- Touching eyes, nose, or mouth with hands that have the virus on them.³

Vaccinated Individuals

According to the CDC, "[f]ully vaccinated means a person has received all recommended doses in their primary series of COVID-19 vaccines."⁴

Guidance for Wearing Masks

Who Should Wear a Mask

The CDC guidance instructs individuals, including children ages 2 years and older, "should properly wear a well-fitting mask indoors in public in areas where the COVID-19 Community Level is high, regardless of vaccination status." The CDC also advises:

- People who have a condition or are taking medications that weaken their immune system may not be fully protected even if they are up to date on their COVID-19 vaccines.
- Wearing a mask over your nose and mouth is required on planes, buses, trains, and other forms of public transportation traveling into, within, or out of the United States and while indoors at U.S. transportation hubs such as airports and stations.⁶

¹ How COVID-19 Spreads, CDC, https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html (last updated July 14, 2021).

² *Id*.

³ *Id*.

⁴ Stay Up to Date with Your Vaccines, CDC, https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html (last updated March 8, 2022).

⁵ How to Protect Yourself & Others, CDC, https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html (last updated Feb. 25, 2022). ⁶ *Id.*

COVID-19 Community Level

The COVID-19 Community Level is a CDC tool to help communities decide what prevention steps to take based on the latest data.⁷

Low

 Wear a mask based on your personal preference, informed by your personal level of risk

Medium

- If you are immunocompromised or at high risk for severe illness
 - Talk to your healthcare provider about additional precautions, such as wearing masks or respirators indoors in public
- If you live with or have social contact with someone at high risk for severe illness, consider testing yourself for infection before you get together and wearing a mask when indoors with them.

High

- Wear a well-fitting mask indoors in public, regardless of vaccination status or individual risk (including in K-12 schools and other community settings)
- If you are immunocompromised or at high risk for severe illness
 - Wear a mask or respirator that provides you with greater protection⁸

The CDC has a tool to "[f]ind community levels and prevention steps by county" at COVID-19 County Check.9

Recommended Types of Masks

The CDC recommends that individuals "[w]ear a mask with the best fit, protection, and comfort." ¹⁰

Accommodation for Disability

The CDC advises that "[c]ertain groups of people may find it difficult to wear a mask, including people of any age with certain disabilities. Challenges may be caused by being sensitive to materials on the face, difficulty understanding the importance of mask wearing for protection, or having difficulty controlling behavior to keep the mask in place. People with certain disabilities or their caregivers can assess whether they need to wear a mask." ¹¹

⁷ Use and Care of Masks, CDC, https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html (last updated Feb. 25, 2022).

⁸ *Id*.

⁹ *Id*.

¹⁰ *Id*.

¹¹ *Id*.

Physical Distancing

The CDC advises individuals practice physical distancing to stay 6 feet away from others when indoors in public "[i]f you are not up to date on COVID-19 vaccines, . . . especially if you are at higher risk of getting very sick with COVID-19."¹²

"Physical distancing" (or "social distancing") means individuals stay at least 6 feet (about 2 arm lengths) from other people who are not from the individual's household. 13

"Close contact through proximity and duration of exposure" is defined as when "[s]omeone was less than 6 feet away from infected person (laboratory-confirmed or a clinical diagnosis) for a cumulative total of 15 minutes or more over a 24-hour period (for example, three individual 5-minute exposures for a total of 15 minutes). An infected person can spread SARS-CoV-2 starting from 2 days before they have any symptoms (or, for asymptomatic patients, 2 days before the positive specimen collection date)." ¹⁴

Ventilation

According to the CDC, "SARS-CoV-2 viral particles spread between people more readily indoors than outdoors When indoors, ventilation mitigation strategies can help reduce viral particle concentration. The lower the concentration, the less likely viral particles can be inhaled into the lungs (potentially lowering the inhaled dose); contact eyes, nose, and mouth; or fall out of the air to accumulate on surfaces. Protective ventilation practices and interventions can reduce the airborne concentrations and reduce the overall viral dose to occupants." ¹⁵ The CDC recommends various interventions, including:

- Increase the introduction of outdoor air.
- Ensure ventilation systems operate properly and provide acceptable indoor air quality for the current occupancy level for each space.
- Rebalance or adjust HVAC systems to increase total airflow to occupied spaces when possible.
- Turn off any demand-controlled ventilation (DCV) controls that reduce air supply based on occupancy
 or temperature during occupied hours.
- Improve central air filtration.
- Ensure restroom exhaust fans are functional and operating at full capacity when the building is occupied.
- Use portable high-efficiency particulate air (HEPA) fan/filtration systems to enhance air cleaning.
- Generate clean-to-less-clean air movement by evaluating (and as necessary repositioning) the supply louvers, exhaust air grilles, and/or damper settings.
- Use ultraviolet germicidal irradiation (UVGI) as a supplemental treatment to inactivate SARS-CoV-2 when options for increasing room ventilation and filtration are limited.

¹² How to Protect Yourself & Others, CDC, https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html (last updated Feb. 25, 2022).

¹³ Social Distancing, CDC, http://web.archive.org/web/20210628213655/https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html (last updated Nov. 17, 2020).

¹⁴ Appendices, Appendix A – Glossary of Key Terms, CDC, https://www.cdc.gov/coronavirus/2019-ncov/php/contact-tracing-plan/appendix.html#contact (last updated Jan. 4, 2022).

¹⁵ Ventilation in Buildings, CDC, https://www.cdc.gov/coronavirus/2019-ncov/community/ventilation.html (last updated June 2, 2021).

• In non-residential settings, run the HVAC system at maximum outside airflow for 2 hours before and after the building is occupied. 16

Court Standards and Protocols

Baseline Standards

As a general rule, the Court's standards and protocols to protect public health use the CDC guidance in effect at a given time as the baseline. For those trials held in a courthouse or other building that has more rigorous standards and protocols, however, the Court will adhere to the more rigorous standards and protocols.

Court Ventilation

Fresh air circulates through the Washington, D.C. courthouse and the other trial courtrooms used by the Court during the day. Incoming fresh air is mixed with some of the conditioned air while some of the conditioned air exhausted out of the building.

In the Washington, D.C. courthouse, a minimum of 20 to 25 percent of fresh air circulates daily to mix with the conditioned airflow, MERV 13 (Minimum Efficiency Reporting Value) air filters are used, and ultra-violet lighting is used in the air handler to kill any outside bacteria and viruses that could be floating in the air.

The courtroom ventilation in the other trial cities in which the Court holds trials is dependent on the building in which the Court's space is located. See <u>Appendix A, Court Physical Space Data</u>. Use of other courtrooms is determined on a case-by-case basis and only proceeds after a determination by the Facilities Manager, in consultation with the Chief Judge and Clerk, that the ventilation mitigation strategies put in place to reduce viral particle concentration are comparable to those in the Washington, D.C. courthouse.

Court Cleaning

Enhanced cleaning and disinfecting are conducted by the General Services Administration (GSA) in all buildings used by the Court following a COVID-19 incident.

Entering and Exiting the Court

Entry Requirements

Trial participants, trial observers, members of the press, and general public are included in the definition of "visitor." Visitor access is restricted to designated areas in the Washington, D.C. courthouse.

The requirements for entry into a building hosting an in-person Tax Court proceeding outside Washington, D.C. vary with location. Visitors are responsible for verifying and complying with building entry requirements. Conditions change rapidly. For the most up-to-date information, visitors should check the relevant building's website for entry requirements.

Public Access for Scheduled In-Person Proceedings

In-person Court proceedings are open to the public and press. Trial participants (petitioner, respondent, counsel, witness, interpreter, and court reporter) are allowed entry before other individuals. Other individuals

¹⁶ *Id*.

may enter on a first-come, first-served basis until the courtroom has reached physical distancing capacity. When courtroom capacity is reached, no additional visitors are admitted.

Vaccination or Negative Test Result

The COVID-19 protocols for entry into the Washington, D.C. courthouse include the requirement that visitors show proof of full vaccination or a negative test result from a test taken within 72 hours. The Court will not handle, retain, or copy these documents.

Visitors to a Tax Court field courtroom are responsible for complying with any vaccination or testing requirements in effect for the building hosting the in-person Tax Court proceeding.

Face Coverings

The Washington, D.C. courthouse is currently in an area classified as "Low" for COVID-19 Community Level. While the COVID-19 Community Level is "Low," masks are not required in the Washington, D.C. courthouse. If the COVID-19 Community Level is classified as "High," in Washington, D.C., all visitors, regardless of vaccination status, will be required to wear a mask in the Washington, D.C. courthouse.

The Court follows the mask requirements in the buildings where the Court's field courtrooms are located.

All visitors are responsible for providing their own properly fitting mask and wearing it as required. In locations other than Washington, D.C., a mask may not be required to enter the building.

Contactless Check-in for Contact Tracing

To support contact tracing, visitors must register attendance via QR Code prior to entry into the courtroom. The QR Code will be posted outside the courthouse and courtrooms so that all visitors may access the registration form from a mobile device. The presiding judge may also disseminate the QR Code to trial participants in advance of trial.

The QR code may be scanned with a cell phone, tablet camera, or any QR code app. See Appendix B, QR Code for Contactless Check-in. Once scanned, the code links to a short check-in form. The Court will automatically receive responses once the form is submitted. The questions can be changed to Español by selecting the drop-down arrow in the upper right corner next to English on the check-in form. The check-in questions for contact tracing are:

- 1. Name (First and Last)
- 2. Phone Number with Area Code
- 3. Email Address
- 4. Place of Trial (City, State)
- Date of Trial

Upon submission of the responses, the visitor will receive an auto-generated notification with instructions to contact the Clerk at <u>covidreporting@ustaxcourt.gov</u> in the case of suspected or diagnosed COVID-19 as detailed under <u>Contact Tracing Protocol</u>.

Court Visitor Health Screening

Health Screening Questions

Before entering the Washington, D.C. courthouse, all visitors (including trial participants and observers), are asked to self-certify that the answer to each of the health screening questions listed below is "no."

If the answer to any of the screening questions is "yes," the visitor should not enter the courthouse. If such visitor is a trial participant, such person should contact the trial clerk or Clerk's office (at covidreporting@ustaxcourt.gov) as soon as possible. Throughout the trial, trial participants are to report any change in their health and the health of those they live with or have had close contact with immediately. The trial may be canceled, rescheduled, or converted to remote in the event of illness.

The screening questions are:

- 1. Have you experienced any of the following symptoms in the past 48 hours?
 - The symptoms are fever or chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, and diarrhea.
- 2. Within the past 14 days, have you been in close physical contact (6 feet or closer for a cumulative total of 15 minutes) with:
 - o anyone who is known to have laboratory-confirmed COVID-19; or
 - o anyone who has any symptoms consistent with COVID-19?
- 3. Are you isolating or quarantining because you may have been exposed to a person with COVID-19 or are worried that you may be sick with COVID-19?
- 4. Are you currently waiting on the results of a COVID-19 test due to recent exposure or symptoms of illness?

Signage with the questions is located on the exterior of the Washington, D.C. courthouse near the entrance doors. The signage explains that entry is not allowed for anyone experiencing COVID-19 symptoms.

Security Entry Procedures

Trial participants (petitioner, respondent, counsel, witness, interpreter, and court reporter) will enter the building (Washington, D.C.) or courtroom (field courtrooms) at times established by the presiding judge. Trial observers may not enter until 15 minutes before the time the trial is set to begin.

The entrance for the Washington, D.C. courthouse is through the Court Security Office, located at the 2nd Street and E Street corner of the courthouse. Signage is located at the entrance to indicate 6-foot spacing for those waiting in line for the health and security procedures. In the event of inclement weather, those waiting in line for entry are to wait in line under the cantilever portion of the building on the monumental staircase at 6-foot intervals as designated with signage. Upon entry, security officers will verify identification, but will not retain the visitor's identification.

Designated Areas in the Washington, D.C. Courthouse

Elevator and Stairs

In the Washington, D.C. courthouse, a dedicated elevator for courtroom visitors is available during trial sessions. The dedicated elevator will only provide access to the third floor and the ground floor.

Dedicated stairwells (one for those walking up and one for those walking down) are available for trial participants. The dedicated stairwells provide access only to the third floor and the ground floor.

Courtroom Procedures

Pre-Trial Conference

The presiding judge is encouraged to confer with the parties before trial to review issues that may arise relating to COVID-19.

Face Coverings

Generally, the face covering policy to enter the courthouse applies regarding entering the courtroom. The Washington, D.C. courtrooms are currently in an area classified as "Low" for COVID-19 Community Level. While the COVID-19 Community Level is "Low," masks are generally not required in the Washington, D.C. courtrooms. If the COVID-19 Community Level is classified as "High," in Washington, D.C., all visitors, regardless of vaccination status, will be required to wear a mask in the Washington, D.C. courtroom. The presiding judge has the discretion, however, to implement stricter requirements for visitors to the courtroom.

The Court follows the mask requirements in the buildings where the Court's field courtrooms are located.

If the Court proceedings are in an area classified by the CDC as a "High" COVID-19 Community Level, the presiding judge has discretion to allow a testifying witness to remove that witness' mask when testifying behind the plexiglass shield in the witness box or allow counsel to remove counsel's mask when questioning the witness, so long as counsel maintains the 6-foot physical distancing requirement.

Reasonable Accommodations

If a trial participant is unable to wear a mask and is in a Court proceeding in an area classified by the CDC as a "High" COVID-19 Community Level, the judge has discretion to consider reasonable accommodations.

Disposable Masks

Although all courtroom visitors are responsible for providing their own masks, the Court has a limited number of disposable masks available for courtroom visitors who do not have appropriate face coverings.

Courtroom Layout for Physical Distancing

Trials are conducted in a manner that allows for trial participants and observers to practice physical distancing (i.e., 6 feet apart), with limited exceptions. To meet this requirement, adjustments are made in certain courtrooms (e.g., counsel tables are moved or temporary tables are in place).

An exception to this physical distancing requirement is permitted:

- for visitors who are fully vaccinated,
- for visitors who reside in the same household,
- for counsel/taxpayer representatives who choose not to physically distance from each other or their clients,
- for the court reporter, and
- for witnesses while testifying behind plexiglass.

Sanitation Supplies and Protocols

Hand sanitizer and disinfectant wipes are located at the entrance to the courtroom, on counsel tables, the witness stand, the court reporter's table, the trial clerk's stand, and the judge's bench.

Witness Stand

The judge generally will ask each witness to sanitize the witness stand by cleaning the area with disinfectant wipes before leaving. If additional cleaning measures of the witness stand or other parts of the courtroom are necessary, the Court will recess to permit enhanced cleaning.

Questioning Witnesses and Responding to the Judge

Trial participants are not to approach the bench except as expressly directed by the judge. Microphones in Tax Court courtrooms are used by court reporters to record the testimony at trial. The court reporter is responsible for use of microphone covers during trial and for replacing microphone covers between witnesses.

Electronic Evidence and Exhibits

To the extent possible, the parties present all proposed exhibits and other evidence in electronic format. The Court has devices for testifying witnesses, on which the proposed exhibits and other evidence may be downloaded before the trial begins. The Court and the litigants are expected to access the proposed exhibits and other evidence from their own devices. Litigants should download the materials necessary before trial, as wireless connectivity varies in the Tax Court courtrooms.

The presiding judge should facilitate agreement in advance of trial in the event it is necessary to present physical evidence and exhibits so that appropriate physical distancing is maintained. Hand sanitizer or non-latex gloves are used to ensure the safe handling of physical evidence.

Confidential Communications Between Counsel, Representatives, and Parties

Judges should consider modifications to typical trial procedures to accommodate counsel's and taxpayer representative's need to confer with each other and their clients during trial while maintaining appropriate physical distancing.

Court Reporter

The Court will require court reporters to verify their vaccination status. If not fully vaccinated, such court reporter is required to wear a mask and maintain 6 feet of physical distance from all visitors present in the courthouse.¹⁷

Low Income Taxpayer Clinic and Bar Sponsored Program Representatives

As necessary, the Court will contact the appropriate Low Income Taxpayer Clinics and bar sponsored programs regarding the Courtroom Standards and Protocols to Protect Public Health and to gauge the number of representatives attending the trial.

¹⁷ Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors (September 9, 2021), and the Safer Federal Workforce Task Force's COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors, set policy and protocols regarding federal contractors and COVID-19 vaccination requirements.

Court Visitors to Observe the Trial

Court visitors who are present to observe the trial are required to maintain appropriate physical distancing.

Contact Tracing Protocol

If a Court visitor is suspected of having or diagnosed with COVID-19, or during the previous 10 days was in close contact with anyone suspected of having or diagnosed with COVID-19, the visitor must notify the trial clerk (as directed by the trial clerk) or Clerk's office (at covidreporting@ustaxcourt.gov) and leave the courthouse immediately. If the trial participant is not yet in the courthouse, the participant should contact the trial clerk and not report to the courthouse.

The trial clerk should notify the Clerk and the Facilities Manager of the incident. The Court will notify courtroom visitors, based upon the completed U.S. Tax Court Check-in Form, of the incident. The Facilities Manager will contact GSA. GSA will notify any other tenants and coordinate enhanced cleaning as appropriate (see Court Cleaning).

Upon learning of a trial participant as described above, the presiding judge will consult with petitioner, petitioner's representative, and respondent. Based on the information gathered, the Chief Judge, Clerk, and presiding judge will determine: (1) whether the trial participant can continue to participate in the trial and, if so, in what manner, to ensure the safety of the other trial participants; (2) if the trial participant cannot continue to participate in the trial, whether the trial can proceed without the trial participant; and (3) whether the trial participant's suspected or confirmed COVID-19 diagnosis or potential exposure to COVID-19 is cause for continuing the trial or pivoting to a remote trial. The Court will take into account the vaccination rate and COVID-19 positivity rate in the trial city when determining how to proceed.

Visitors who are not fully vaccinated and were in close contact with the suspected or confirmed COVID-19 case should self-isolate or quarantine in accordance with CDC guidance. ¹⁸

¹⁸ Quarantine and Isolation, CDC, https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/quarantine.html (last updated Jan. 27, 2022).

Appendix A: Court Physical Space Data

U.S. Tax Court Trial Cities		Type of Building	Percent Fresh Air*	MERV	Courtroom Capacity	Physical Distancing Capacity
Alabama	Birmingham					
	Mobile	Courthouse		13	40	20
Alaska	Anchorage	Courthouse		11	48	24
Arizona	Phoenix	Courthouse	10%	15	60	30
Arkansas	Little Rock	Courthouse and Federal building				
California	Fresno	Courthouse and Federal building				
	Los Angeles	Courthouse and Federal building		11	87	43
	San Diego	Federal building			80	40
	San Francisco	Courthouse and Federal building	100%**	13	not available	
Colorado	Denver	Courthouse	as much as	13	86	43
Connecticut	Hartford	Courthouse and Federal building	15% min.	14	35	17
District of Columbia		Headquarters Center Courtroom North Courtroom South Courtroom	25%	13	140 60 60	60 30 30
Florida	Jacksonville	Courthouse	100%**	13	49	24
	Miami	Federal building	21%	11	50	25
	Tallahassee	Federal building		13	40	20
	Tampa	Federal building		13	42	21
Georgia	Atlanta	Courthouse and Federal building	10%	8	70	35
Hawaii	Honolulu	Courthouse and Federal building				
Idaho	Boise	Courthouse		8	75	35
	Pocatello	Courthouse				
Illinois	Chicago	Federal building		15	55	27
	Peoria	Federal building		13	60	30
Indiana	Indianapolis	Courthouse and Federal building	20%	13	40	20
Iowa	Des Moines	Courthouse		13	25	12
Kansas	Wichita	Courthouse		13	50	25
Kentucky	Louisville	Courthouse/Custom House			35	17
Louisiana	New Orleans	Federal building/Custom House	10%	8	76	38
	Shreveport	Courthouse and Federal building				
Maine	Portland	Courthouse		11	30	15
Maryland	Baltimore	Courthouse		13	60	30
Massachusetts	Boston	Courthouse/Post Office	100CFM	13	50	25
Michigan	Detroit	Courthouse	200CFM	8	27	13
Minnesota	St. Paul	Courthouse and Federal building	10% min.	15	116	58
Mississippi	Jackson					
Missouri	Kansas City	Courthouse	10% min.	14	not available	
	St. Louis	Courthouse	as much as possible	14	not available	
Montana	Billings	Courthouse		11	60	30
	Helena	Courthouse				

U.S. Tax Cou	ırt Trial Cities	Type of Building	Percent Fresh Air*	MERV	Courtroom Capacity	Physical Distancing Capacity
Nebraska	Omaha	Courthouse		13	200	100
Nevada	Las Vegas	Courthouse and Federal building	10%	14	46	23
	Reno	Courthouse and Federal building	20%	10	100	50
New Mexico	Albuquerque	Courthouse		10	100	
New York	Albany	Courthouse		13	75	35
	Buffalo	Courthouse		14	75	35
	New York City	Federal Building		13	65	32
	Syracuse	Courthouse and Federal building				
North Carolina	Winston-Salem	Federal Building			48	24
North Dakota	Bismarck	Courthouse		11	80	40
Ohio	Cincinnati	Courthouse	20%	13	35	17
	Cleveland	Federal Building	60%	13	88	44
	Columbus	Courthouse and Federal building	0071			
Oklahoma	Oklahoma City	Courthouse and Federal building	15-20%	8	56	28
Oregon	Portland	Courthouse				
Pennsylvania	Philadelphia	Federal building/Custom House	100%	11	53	26
	Pittsburgh	Federal building	20% min.	13	not available	
South Carolina	Columbia	Federal building			48	24
South Dakota	Aberdeen	Courthouse				
Tennessee	Knoxville	Courthouse				
	Memphis	Courthouse and Federal building		13	45	22
	Nashville	Courthouse and Federal building		13	100	50
Texas	Dallas	Courthouse and Federal building			62	31
	El Paso	Courthouse				
	Houston	Courthouse			55	27
	Lubbock	Courthouse				
	San Antonio		100%	10		
	Cleveland					
	Columbus	Courthouse				
Utah	Salt Lake City	Courthouse and Federal building	100%	10	not available	
Vermont	Burlington	Federal Building		14	60	30
Virginia	Richmond	Courthouse and Federal building				
	Roanoke	Courthouse		13	50	25
Washington	Seattle	Courthouse	20% min.	13	38	19
	Spokane	Courthouse				
West Virginia	Charleston	Courthouse				
Wisconsin	Milwaukee	Courthouse and Federal building			28	14
Wyoming	Cheyenne	Courthouse		8	40	20

^{*} The climate control systems of some buildings use a mix of outside air to regulate temperatures, therefore the mix at any one time is dependent upon the outside climate versus desired indoor temperature.

^{**} HVAC system does not recirculate any air. Thus, all air circulated through the HVAC system comes from the outside.

Appendix B: QR Code for Contactless Check-in

FOR EXAMPLE PURPOSES ONLY

This QR Code and link are presented as examples.





United States Tax Court

400 Second Street, N.W. Washington, D.C. 20217 Telephone: 202-521-0700